

D&F
C/F

★ JUN 25 2000 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: HOLOCAUST VICTIM ASSETS
LITIGATION

This Document Relates to: All Cases

BROOKLYN OFFICE

Case No. CV 96-4849 (ERK)(MDG)
(Consolidated with CV 96-5161
and CV 97-461)

MEMORANDUM & ORDER

X

**MEMORANDUM & ORDER APPROVING SET 165: 16 AWARDS CERTIFIED BY THE
CLAIMS RESOLUTION TRIBUNAL PURSUANT TO ARTICLE 31(2) OF THE RULES
GOVERNING THE CLAIMS RESOLUTION PROCESS AND AUTHORIZING PAYMENT
FROM THE SETTLEMENT FUND**

KORMAN, J.:

As provided under the Settlement Agreement, and in accordance with the procedures established in the December 8, 2000 Memorandum & Order and in the Distribution Plan, the Claims Resolution Tribunal (the "CRT") is hereby requesting the Court's approval, pursuant to Article 31(2) of the Rules, of 16 certified Awards listed in Annex A, and the resources to pay these Awards through funds to be deposited in the Swiss Banks Settlement-Dormant Accounts-Payment Account from the Settlement Fund. The total amount of these 16 Awards is US \$605,411.06 (SF 629,627.50 converted at a rate of 1.04 Swiss Francs per U.S. Dollar).

With this one hundred and sixty-fifth set, a total of US \$469,854,237.76 will have been awarded thus far. This total amount is comprised of Awards issued under CRT I and CRT II combined, and Plausible Undocumented Awards (PUAs). Under CRT I alone, which took place from 1997 through 2000, 207 accounts, with a value of US \$18,184,492.00, were awarded as accounts that had belonged to Victims of Nazi Persecution. Under CRT II alone, 2,650 Awards for 4,207 accounts totaling US \$390,701,536.84¹ will have been made to date to Victims or Targets of Nazi Persecution

¹ This amount includes the payments of decisions on appeal issued by Special Masters Michael Bradfield and Helen Junz totaling US \$4,655,653.71.

making up the Deposited Assets Class, with the average Award amounting to US \$ 128,085.25.² The total number of PUAs issued to date is 12,360 less 173 full and partial deductions totaling \$60,968,208.92.

Two Awards in the one hundred and sixty-fifth set are based on claims that were received past the claim filing deadline. The Court in its discretion has decided to accept certain claims received past the claim filing deadline, namely those where a set of exceptional circumstances is demonstrated. Such a set would include, but not be limited to, the following: (1) the claimant has proven with certainty that the account owner is his/her relative or that he/she is otherwise entitled to the account; (2) the account has not previously been awarded to another claimant; (3) the claimant is disabled or of advanced age; and (4) there are no other timely claims to the account filed by those with an equal or closer degree of relationship to the account owner. These Awards are *In re Ezechiel et al.* (Tab 4) and in *In re Trichter* (Tab 15). In *In re Ezechiel et al.*, all the circumstances listed in (1) through (4) obtain. In *In re Trichter*, the award is to two unrelated claimants – one timely, one late – who both plausibly identified the account owner as their father. Neither claimant has proven with certainty that the account owner is his father. However, both the timely and the late claimant did identify unpublished information about the account owner. Further, the late claimant's cousin filed a timely claim and was awarded an account belonging to her father, who was the brother of the late claimant's father. That account was held at the same bank as the account at issue here, and both accounts were considered for registration in the 1962 survey of assets held in Switzerland by foreigners or stateless persons who presumably had been victims of racial, religious or political persecution (the “1962 Survey”). These circumstances suggest that the account owners may have been related (the brothers may have decided together to open their accounts at the same bank) and

² In calculating the average value of CRT-II awards, the Set 75 award and the two Set 110 awards were excluded because their size made them outliers that would have skewed the result. The calculation further excludes appeal awards in the amount of US \$4,500,173.97 in which the earlier award was not rescinded. On the other hand, the calculation includes appeal awards issued upon reversal of a denial as recommended by Special Masters Michael Bradfield and Helen Junz and issued by the CRT.

shared the same fate (both brothers were deported and perished). Given these exceptional circumstances, which in turn lend such strength to the late claim, and given the fact that the late claimant is over 70 years old, lives in Germany, and explained that he was not aware of the claims filing deadline, the CRT recommends that the Court exceptionally accept his late claim for inclusion in this award. The CRT recommends that the timely claim also be included in the award, because, although it is strong, the late claim is not a definite match, because the timely claim is also a strong match, and because the exclusion of the timely claim would unfairly prejudice the timely claimant.

This submission includes six Awards to six Primary Claimants who previously received a Plausible Undocumented Award (“PUA”), as detailed in Annex B to this Order. Each recipient was made aware at the time the PUA was awarded that, in the event the CRT located a Swiss Bank account or accounts to which he/she was entitled, the PUA amount of US \$5,000.00 already received would be deducted from any future award(s) that may be made in connection with such account(s). Therefore, the amount requested for transfer to the Swiss Banks Settlement-Dormant Accounts - Payment Account equals the award amount of US \$605,411.06 for the 16 Awards referred to above less US \$30,000.00 for previous PUA payments, for a total of US \$575,411.06.

As set forth in the Awards and as required by Article 31(3) of the Rules, the Certified Awards shall be paid in full by the Special Masters after approval of such Awards by the Court.

Therefore, it is hereby

ORDERED that the attached 16 Awards are hereby approved for payment pursuant to Article 31(2) of the Rules;

ORDERED that for the payment of these 16 Awards certified by the CRT and approved by the Court, less the 6 payments previously made in the form of PUAs, the Signatories of the Settlement Fund are hereby ordered to transfer immediately US \$575,411.06 from the Settlement Fund to the Swiss Banks Settlement-Dormant Accounts-Payment Account;

It is further ordered that the Special Masters shall provide the Court with the name and address of every class member receiving an Award and Award Denials, which information shall be filed with the Court under seal.

I will issue additional orders approving Awards certified by the CRT and transferring further sums from the Settlement Fund as the CRT certifies them to this Court.

Brooklyn, New York
Dated: June 23, 2008

SO ORDERED:

s/Edward R. Korman

Edward R. Korman
United States District Judge

CLAIMS RESOLUTION TRIBUNAL

[BATCH CLXV] - ANNEX A

Pursuant to Article 16 of the Rules Governing the Claims Resolution Tribunal, as amended, (the "Rules"), the Claims Resolution Tribunal hereby certifies as of 18 June 2008 the following Awards for approval by the Court and payment by the Special Masters:

Account Owner Last Name and Claim Number	Award Amount (SFr.)
1. Baszanger 218890/WT; 218891/WT; 218892/WT	26,750.00
2. Beyeler 724482/MBC	10,375.00
3. Engel 210434/HB; 702316/HB	26,750.00
4. Ezechiel <i>et al.</i> 402240/DE; 402241/DE; 402238/DE; 402239/DE	53,500.00
5. Gribeschock 217897/WT; 217898/WT	129,625.00
6. Grünglas 221831/JG	49,375.00
7. Harris 776213/WI	49,375.00
8. Israelowitz 788590/JG	49,375.00
9. Koritschoner 202397/JG, 751366/JG	49,375.00
10. Luchsinger 209940/MBC	12,127.50
11. Oppenheimer 001610/HB	26,750.00
12. Rosenberg 216834/MBC; 784362/MBC 202854/MBC*	49,375.00
13. Schneider 206347/LH	10,375.00
14. Spiegel 771694/HB	49,375.00
15. Trichter 400536/GO; 402225/GO*	26,750.00
16. Ungar 400336/JG	10,375.00
TOTAL	629,627.50
Total amount in US Dollars³	\$ 605,411.06

* MPM award

³ Exchange rate as of 18 June 2008 of 1.04 Swiss Francs per U.S. Dollar.

CLAIMS RESOLUTION TRIBUNAL

[BATCH CLXVI] - ANNEX B
UNREDACTED / CONFIDENTIAL

Deduction for Plausible Undocumented Awards previously issued by the Claims Resolution Tribunal:

Account Owner Last Name and Claim Number	Claimant Name	Amount to be deducted (in US \$)
Engel 210434/HB; 702316/HB	Maria Lustigman	\$ 5,000.00
Grünglas 221831/JG	Miriam Frankel	\$ 5,000.00
Koritschoner 202397/JG, 751366/JG	Giulia Maria Hine	\$ 5,000.00
Schneider 206347/LH	Eric Schneider	\$ 5,000.00
Trichter 400536/GO; 402225/GO*	William Trichter	\$ 5,000.00
Ungar 400336/JG	Benjamin Ungar	\$ 5,000.00
Total PUA Deduction Amount in US Dollars		\$ 30,000.00
Total Set Amount Awarded in US Dollars		\$ 605,411.06
Total Net Set Amount (after deduction) in US Dollars		\$ 575,411.06
* MPM award		